

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 861 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

KANKUBEN KANABHAI VIRADA

Versus

DEV DAN KANA AYAR

Appearance:

MR SURESH M SHAH for Petitioners

SERVED BY AFFIX.-(R) for Respondent No. 1

RULE SERVED for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/07/98

ORAL JUDGEMENT

The respondents though served have neither appeared in person nor filed their appearance through Advocates.

The petitioners, original claimants, have filed this application with a request to transfer M.A.C.P.

No.1279/93 pending before the Motor Accident Claims Tribunal, Nadiad to the Motor Accident Claims Tribunal, Kutch at Bhuj .It is the case of the petitioners that the petitioners herein have instituted claim case in the Court of the Motor Accidents Claims Tribunal at Nadiad within whose jurisdiction the accident took place. It is the case of the petitioners that in the pending claim case the petitioners have to examine witnesses residing within the Kutch district only and it is very much difficult and inconvenient and causing great hardship for the petitioners to attend the Tribunal at Nadiad where at present the aforesaid claim case is pending and no evidence has so far been led therein. The petitioners are the resident of village Galpadar, Taluka Anjar, Dist : Kutch within the jurisdiction of Kutch Motor Accidents claim Tribunal and respondents Nos.1 and 2 also reside in Junagadh district. The petitioners have therefore prayed that it would be more easy and more convenient to the petitioners as well as respondents Nos.1 and 2 to attend the proceedings at Bhuj if the said proceedings are ordered to be transferred at Bhuj from Nadiad. Moreover one of the branches of respondent No.3 is also situated in Gandhidham-Kutch. Therefore, in view of the amendment of Section 166(2) of the Motor Vehicles Act whereby it is provided that every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides. In view of this provision, I am of the opinion that it would not only be in the interest of justice but it would be convenient to all the parties to have the claim petition tried and disposed of by the M.A.C.Tribunal, Kutch at Bhuj.

In the result, this application is allowed. The M.A.C.P.No.1279/93 pending before the Motor Accident Claims Tribunal, Nadiad is ordered to be transferred to the Motor Accident Claims Tribunal, Kutch at Bhuj. Office is directed to send writ of this order to both the Courts i.e. at Nadiad and Bhuj. Rule is made absolute to the aforesaid extent with no order as to costs.

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